

SUNRISE, FLORIDA

ORDINANCE NO. 491

AN ORDINANCE OF THE CITY OF SUNRISE, FLORIDA, AMENDING CHAPTER 2 "ADMINISTRATION", ARTICLE III "BOARDS, COMMITTEES, COMMISSIONS, COUNCILS"; ESTABLISHING AN UNSAFE STRUCTURES BOARD; CREATING SECTIONS 2-245 THROUGH 2-249, PROVIDING FOR LEGISLATIVE INTENT; PROVIDING FOR QUALIFICATION OF MEMBERS, TERMS OF OFFICE, AND ORGANIZATION; PROVIDING FOR DUTIES AND POWERS OF MEMBERS, CONFLICT OF INTEREST, AND DUTIES OF LEGAL COUNSEL; PROVIDING FOR INSPECTION OF UNSAFE BUILDINGS AND STRUCTURES, NOTICE OF VIOLATION, POSTING REQUIREMENTS, AND RECORDING OF NOTICE OF VIOLATION; ESTABLISHING AN APPEAL PROCEDURE, NOTICE OF PUBLIC HEARING, JUDICIAL REVIEW, STANDARDS AND CRITERIA; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission desires to create an unsafe structures board within Chapter 2, Article III, entitled "Boards, Committees, Commissions, Councils".

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SUNRISE, FLORIDA:

Section 1. Chapter 2, Article III, of the City Code is hereby amended to add Division 12, "Unsafe Structures Board" and Sections 2-245 through 2-249, which shall read:

DIVISION 12

UNSAFE STRUCTURES BOARD

Sec. 2-245. Legislative Intent.

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~~scored through~~ words are deletions
underscored words are additions

It is the intent of the City Commission of the City of Sunrise to protect the health, safety, and welfare of its citizens when they use or occupy buildings located within the City's corporate limits.

Sec. 2-246. Creation of Board; Qualification of members; terms of office; organization.

(a) Creation. There is hereby created an unsafe structures board consisting of nine (9) members appointed by the city commission in the manner provided by law.

(b) Qualification of members. Members of the unsafe structures board shall be permanent residents of the city who possess outstanding reputations for civic activity, interest, integrity, responsibility and business or professional responsibility. All professional members of the board shall be registered and licensed by the state and county, when applicable. Members shall be appointed by the City Commission and the representative membership of the board shall be as follows:

- (1) A registered engineer;
- (2) A registered architect;
- (3) A general building contractor;
- (4) An electrical contractor;
- (5) An attorney at law;
- (6) A plumbing contractor;
- (7) A real estate appraiser;
- (8) A real estate property manager; and
- (9) A citizen with experience and background in the field of social problems.

In the event the city commission cannot find properly qualified residents, the city commission may appoint a qualified nonresident within the specific categories or professions required. As an alternative to appointing board members or in the event the Board is unable to meet or convene for any reason, the city clerk may use the Broward County Unsafe Structures Board to hear and dispose of cases brought by the city's building official.

(c) Terms of office.

In order that the terms of office of all the members of the unsafe structures board shall not expire at the same time, the initial appointments to the board shall be as follows:

(1) Three (3) members for the term of two (2) years;

(2) Three (3) members for the term of three (3) years; and

(3) Three (3) members for the term of four (4) years.

Thereafter, all appointments shall be for the term of three (3) years, provided that the term of office, in all instances, shall continue until a successor is appointed and qualified. Appointments to fill any vacancy on the board shall be for the remainder of the unexpired term, but failure to fill a vacancy shall not invalidate any action or decision of the board.

(d) Organization.

(1) The members of the unsafe structures board shall elect a chairperson and a vice-chairperson and such other officers as may be deemed necessary or desirable, who shall serve at the will of the board. Election of officers shall be held annually at the first meeting after April first, and such officers shall hold office for one (1) year.

(2) Five (5) members of the board shall constitute a quorum necessary to hold a meeting or take any action.

(3) A majority vote of the board membership present and voting at a duly constituted meeting shall be sufficient to overrule, modify or affirm any action or decision of the building official or to take any other action within the scope of the powers and duties of the board.

(4) Members shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the performance of their official duties, in accordance with Section 2-78 of the City Code. Furthermore, all the provisions of Chapter 2, Article III, Division 1 of this Code shall apply to this board unless specifically exempted or excluded in this Division 12 of Chapter 2, Article III, of this Code.

(5) No member of the board shall sit as a voting member in any hearing on a matter in which he or she has a personal or financial interest.

(6) The building official, or a designee, shall be the secretary of the board but shall have no vote.

(7) The chairperson or the secretary may call meetings of the board, and meetings may be called by written notice signed by three (3) members of the board.

(8) Minutes and records shall be kept of all meetings of the board, and all meetings shall be public.

(9) All hearings by the board shall be open to the public, and any person whose interest may be affected by the matter on appeal shall be given an opportunity to be heard in person, or through his or her attorney.

(10) Witnesses may be sworn and subpoenaed by the board in a like manner as they are subpoenaed by the courts in the county.

(11) The hearings shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.

(12) The rules of privilege shall be effective to the same extent that they are now, or hereafter may be, recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.

(13) The board may establish rules and regulations for its own procedure.

(14) The city shall provide adequate and competent clerical and administrative personnel and such technical or scientific personnel as may be reasonably required by the board for the proper performance of its duties, subject to budget limitations and shall maintain a record of all proceedings in the office of the city clerk, including but not limited to a court reporter's transcript of the proceeding, and shall make available for copying any and all portions of the record of the proceedings and may certify the same as a true copy and make a reasonable charge therefore; provided, the court reporter shall certify the copy of his or her transcript.

(15) The city shall provide a regular meeting place for the board.

Sec. 2-247. Duties and powers; conflict of Interest; duties of legal counsel.

(a) Duties and powers. The powers and duties of the unsafe structures board shall be as follows:

(1) Hear and determine appeals from actions and decisions of the building official.

(2) Hear and review the application of the building official for review of his or her action where his or her decision, as indicated in a notice of violation, has not been complied with.

(3) Affirm, modify or reverse the decision of the building official upon appeal or on application for review.

(4) Through its secretary, shall transmit the record with all exhibits, instruments, papers, and transcripts of its proceedings to the court in the event of an appeal.

(5) Hear and determine appeals from actions and decisions of the building official and building department pursuant to the provisions of the applicable minimum housing code.

(6) All other duties and powers provided for in the Florida Building Code, and Florida Building Code Broward Edition, as amended from time to time.

(b) Conflict of interest. No official, board member or employee of the city charged with the enforcement of this article shall have any financial interest, directly or indirectly, in any repairs, corrections, construction or demolition which may be required, nor shall any official, board member or employee of the city give to anyone the location of any property or the names of owners thereof on which repairs, corrections or demolition have been ordered, except as otherwise directed hereinafter, until after the owners have been formally advised at which time such shall become a matter of public record.

(c) Duties of legal counsel. It shall be the duty of the city attorney or his or her designee, when so requested, to appear at all hearings before the unsafe structures board and to represent and advise the board.

Sec. 2-248. Inspection of unsafe buildings and structures; notice of violation; posting; recording of notice of violation.

(a) Inspection of unsafe building and structures. The building official, on his or her own initiative or as a result of reports by others, shall examine or cause to be examined every building or structure appearing or reported to be unsafe, and if such is found to be an unsafe building or structure, the building official shall post the property concerned and shall furnish the owner of such building or structure with written notice in the manner provided for in subsection (b) below.

(b) Notice of violation. The building official shall, at least fourteen (14) days prior to posting an unsafe building, give the owner of record of the premises concerned written notice by certified or registered mail, addressed to such person's last known address.

(1) If proof of service by registered or certified mail is not completed by signed return receipt, then a copy of the written notice shall be affixed to the structure concerned and such procedure shall be deemed proper service, and the time for compliance, stipulated in the notice, shall be deemed to commence with the date such notice is so affixed.

(2) This written notice shall state the defects which constitute a violation of this section or the Florida Building Code, Florida Building Code Broward County Edition, or both, and shall prescribe the action to be taken to comply and the time within which compliance must be accomplished, such time shall be reasonable under the particular circumstances involved, subject to reasonable extension when requested in writing, for reasons which the building official considers justifying an extension of time. All such extensions of time shall be by written approval of the building official.

(3) In addition, this written notice shall explain the right of appeal of the decision of the building official to the unsafe structures board, and also advise that unless there is compliance with the instructions in the notice of violation or an appeal is filed that a public hearing before the unsafe structures board will be initiated by the building official after the time for compliance has expired.

(c) Posting. The building official shall post, but not before fourteen (14) days after the notice of violation hereinafter provided has been served, a signed notice in a conspicuous location on the

building or structure which has been determined to be unsafe. The posted notice shall read substantially as follows:

UNSAFE BUILDING. This building or structure is, in the opinion of the Building Official, unsafe, as defined in Section 202 of the Florida Building Code, Broward County Edition, and Chapter 2, Sections 2-245 through 2-249, Unsafe Buildings, Code of the City of Sunrise. This building SHALL BE VACATED--SHALL NOT BE OCCUPIED. Action shall be taken by the owner as further prescribed by written notice previously served. THIS NOTICE SHALL NOT BE REMOVED EXCEPT BY THE BUILDING OFFICIAL. DATE

(d) Recording of notice of violation.

(1) If the owner of the property concerned has not complied with the requirements as stated in the notice of violation within the time stipulated or has not appealed the action of the building official as stated in the notice of violation within the time specified, the building official may file an appropriate instrument in the office of the clerk of the court, to be recorded in the public records of the county, indicating that violations of the Florida Building Code, Broward County Edition, and of section 202 thereof, and sections 2-245 through 2-249 of this Code exist upon the property involved.

(2) The recording of such notice shall constitute constructive notice to all concerned, as well as to any subsequent purchasers, transferees, grantees, mortgagees, lessees and all persons claiming or acquiring interest in such property.

(3) When the violation specified in the notice of violation has been corrected, the building official shall file a document in the public records of the county certifying that the violation has been corrected upon payment of the filing fees by the property owner.

Sec. 2-249. Appeal procedure; notice of public hearing.

(a) Procedure. The owner or anyone having an interest in a building or structure which has been determined to be unsafe, and concerning which a notice of violation has been served by the building official, may appeal the decision of the building official as stated in

the notice of violation to the unsafe structures board. Such an appeal shall be filed prior to the expiration of the time allowed for compliance specified in such notice; provided, however that in no event shall the appeal period be less than fifteen (15) days.

(1) Such appeal shall be in writing, addressed to the secretary of the unsafe structures board, and shall be in the form of a certified statement, stating the reasons for such an appeal and stating wherein they consider the building official to be in error.

(2) Upon receipt of the appeal, the secretary of the board shall proceed to notify all parties in interest as to the time and place the unsafe structures board shall conduct a public hearing on the matter. The procedure for the serving of, and the form of notice is provided for in subsection (b) below

(b) Notice of public hearing.

(1) If the owner or other parties having an interest in the property do not comply with the terms of the notice of violation and do not file an appeal within the time stipulated, the building official shall then apply for a public hearing to be conducted by the unsafe structures board, and the secretary of the unsafe structures board shall notify all parties in interest of the time and place of such public hearing on the matter.

(2) The procedure for the serving, and the form of notice shall be the same in the case where an appeal has been filed by the owner or other parties in interest and such procedure and the form of notice shall be as set forth below:

(3) When an appeal has been properly filed, or when the public hearing is initiated by the building official, as provided herein, the secretary of the unsafe structures board shall issue a notice in the board's name, requiring the owner of record and all parties having an interest to appear before the board in person or by an attorney at the time set forth in such notice, but not earlier than ten (10) days after service of the notice, and show cause why the decision of the building official should not be carried out.

(4) Service of such notices shall be by certified or registered mail to the last known address of the party being served, if known;

however, failure to receive such notice shall not invalidate the same as such notice shall also be perfected by posting such notice on the property and by publishing a copy thereof in a newspaper published in Broward County, such publication to be two (2) times, one (1) week apart.

(5) The time for appearing and showing cause as aforesaid, and a description of the property shall be set forth in such published notice; provided, such time shall not be less than ten (10) days after the last publication of the notice.

(6) Any person or party who shall not appear and show cause as aforesaid shall be as fully bound by proceedings taken as if he or she had appeared and shown cause.

(c) Conduct of public hearing.

(1) On the day established in the notice of public hearing the unsafe structures board shall review all pertinent evidence and hear all testimony from the building official, the owner and other parties in interest and their respective witnesses.

(2) The board, by the issuance of a written order, may modify, rescind, or uphold the decision of the building official as recited in the notice of violation and may order the owner or persons responsible for the building or structure to vacate, or cause to be vacated forthwith, to make repairs and to take necessary action to secure the building, or to demolish the building or structure and remove the salvage, contents, debris and abandoned property from the premises, all within the time stipulated in the order by the board.

(3) Such order shall be entered in the minute book of the board within ten (10) days after such public hearing and a copy of such order shall be forwarded to the owner, and all parties in interest by registered mail, and a copy thereof posted on the premises.

(4) If the owner or those responsible shall fail to comply with the order of the board within the time stipulated therein, and such order is to repair, or secure the building to make it safe, then the city shall cause such building to be vacated, if occupied, and shall through the city or through a contractor making the lowest responsible bid, secure the building or structure.

(5) If the order is to demolish the building or structure and to remove the salvage, contents, debris and abandoned property from the premises, and the owner or those responsible shall have failed to comply with such order, then the city may do so thereafter through the city or through a contractor making the lowest responsible bid.

(6) The city may sell to the highest bidder or bidders for cash the salvage and the contents of such building or other structure so demolished which have not been removed by the owner of the land.

(7) If no response to bids are received for such salvage or contents the city may destroy that for which no bids are received.

(8) Bids shall be secured as provided for in Chapter 5, Article V. Purchasing and Contracting of the City Code, which requirement may be waived by the City Commission for good cause.

(d) Judicial review.

Any person aggrieved by a decision of the unsafe structures board may seek judicial review of that decision in accordance with the Florida Rules of Appellate Procedure.

(e) Standards

(1) Determination.

Buildings or structures that are, or hereafter shall become unsafe, unsanitary or deficient in adequate facilities for means of egress, or which constitute a fire or windstorm hazard, or illegal or improper use, occupancy or maintenance, or which do not comply with the provisions of the applicable minimum housing code, or which have been substantially damaged by the elements, acts of God, fire, explosion or otherwise shall be deemed unsafe buildings and a permit shall be obtained to demolish the structure or bring the building to comply with the applicable codes.

(2) Action required.

Unsafe buildings or structures shall be demolished and removed from the premises concerned, or made safe, sanitary and secure in a manner required by the building official and as provided in this article, provided that where replacement, repair, alteration or demolition is required on buildings or structures within the purview of the applicable minimum

housing code, the provisions of such code shall be complied with and shall control.

(3) Criteria.

The criteria set out in section 202.2 of the Florida Building Code, Broward County Edition, as amended, shall be used by the building official in determining an unsafe building.

Section 2. Conflict. All ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 3. Severability. Should any provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

Section 4. Inclusion in the City Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Sunrise, Florida.

Section 5. Effective Date. This Ordinance shall be effective immediately upon its passage.

PASSED AND ADOPTED upon this first reading this 13TH DAY OF MAY, 2008.

PASSED AND ADOPTED upon this second reading this 10TH DAY
OF JUNE, 2008.

Authentication:

Mayor Steven B. Feren

Felicia M. Bravo
City Clerk

FIRST READING

MOTION: ROSEN
SECOND: ALU

ALU: YEA
ROSEN: YEA
SCUOTTO: YEA
WISHNER: ABSENT
FEREN: ABSENT

SECOND READING

MOTION: WISHNER
SECOND: ROSEN

ALU: YEA
ROSEN: YEA
SCUOTTO: YEA
WISHNER: YEA
FEREN: YEA

Approved by the City Attorney
As to Form and Legal Sufficiency.

Kimberly A. Register